

IN THE UNITED STATES COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JOE RAKES,

Defendant.

MEMORANDUM DECISION AND
ORDER DIRECTING
GOVERNMENT TO RESPOND TO
OUTSTANDING MOTIONS AND
OBJECTIONS BY DEFENDANT
AND STRIKING AND RESETTING
SENTENCING DATE

Case No. 2:05-CR-131 TS

Before the Court are numerous substantive motions and issues raised by Defendant, none of which have been responded to by the government: Defendant's Motion for Judgment of Acquittal;¹ Defendant's Objection to Pre-Sentence Report;² Defendant's Supplemental Objection

¹ Docket No. 116, filed March 29, 2006.

² Docket No. 121, filed May 22, 2006.

to Presentence Report;³ Defendant's Second Supplemental Objection to Presentence Report;⁴ and Defendant's Sentencing Memorandum.⁵ While the government has filed two duplicative position statements⁶ stating that it has no objections to the presentence report, it has utterly failed to address any of the significant arguments raised by Defendant in advance of sentencing, or to even acknowledge Defendant's Motion for Judgment of Acquittal. The Court also notes that the government failed to timely respond to Defendant's Motion to Disclose Statements of Victims,⁷ and subsequently did so⁸ only at the prompting of the Court.

The jury returned its verdict of guilty on Count Two on March 23, 2006. Defendant's Motion for Judgment of Acquittal was filed thereafter on March 29, 2006. On March 24, 2006, the Court set sentencing in this matter for June 13, 2006.⁹ These issues have been known to the government for some time.

The Court is gravely concerned with the lack of the government's response to these crucial issues – particularly Defendant's Motion for Judgment of Acquittal. The lack of response

³ Docket No. 125, filed June 6, 2006.

⁴ Docket No. 126, filed June 7, 2006.

⁵ Docket No. 127, filed June 7, 2006.

⁶ Docket No. 120, filed on May 22, 2006, and Docket No. 122, filed on June 5, 2006.

⁷ Docket No. 119, filed May 19, 2006.

⁸ Docket No. 128, filed June 9, 2006.

⁹ The Court denied Defendant's Motion to Continue Sentencing (Docket No. 123) on June 6, 2006.

has placed the Court in a position where it cannot proceed toward a meaningful and fully informed sentencing of Defendant in this case at this time.

With respect to the Court's directives herein, the Court orders the government to provide meaningful responses to the motions and issues noted herein, including analysis with citation to authority on point relating to Defendant's arguments.

Based upon the above, it is hereby

ORDERED that the government shall file its response to Defendant's Motion for Judgment of Acquittal (Docket No. 116) no later than June 23, 2006. Should Defendant elect to file a reply, it shall be filed no later than June 30, 2006. It is further

ORDERED that the government shall file its responses to Defendant's filings regarding sentencing (Docket Nos. 121, 125, 126, and 127) no later than July 7, 2006. It is further

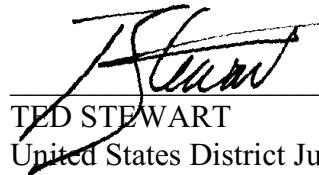
ORDERED that the government timely respond to any further filings by Defendant in the future. It is further

ORDERED that the June 13, 2006, sentencing hearing is STRICKEN and RE-SET for August 10, 2006, at 3:00 p.m.

SO ORDERED.

DATED June 12, 2006.

BY THE COURT:



TED STEWART
United States District Judge